

# AHMAD KESHAVARZ

## *Attorney at Law*

16 COURT ST., 26TH FLOOR  
BROOKLYN, NY 11241-1026

[WWW.NEWYORKCONSUMERATTORNEY.COM](http://WWW.NEWYORKCONSUMERATTORNEY.COM)  
E-mail: [ahmad@NewYorkConsumerAttorney.com](mailto:ahmad@NewYorkConsumerAttorney.com)

PHONE: (718) 522-7900  
FAX: (877) 496-7809

September 7, 2017

VIA ECF AND POSTAL MAIL

Honorable George B. Daniels  
United States District Court  
Southern District of New York  
500 Pearl Street, Room 1310  
New York, NY 10007

**Re: Supplemental authority in opposition to Defendant LR Credit 13,  
LLC motion for judgment on the pleadings as to punitive damages  
under GBL 349.**

***Guzman v. Mel S. Harris and Associates, LLC, 1:16-CV-03499-  
GBD-RLE***

Dear Judge Daniels:

The undersigned represents Plaintiff Jose Guzman in this Fair Debt Collection Practices Act and General Business Law case. Mr. Guzman is a class member who has opted out of the class action settlement in *Sykes v. Mel S. Harris, LLC, et al*, 1:09-cv-08486-DC (SDNY) Mr. Guzman subsequently filed this individual action against Defendants for procuring a default judgment against him in state court using false affidavits of merit and of service, and continuing to seek to execute on the judgment well after they knew that the judgment was likely entered via fraud.

On November 28, 2016 Defendant LR Credit 13, LLC ("LRC") filed DE 93, a motion for partial judgment on the pleadings. Specifically, LRC sought "dismissal with prejudice of the claims of Plaintiff Jose Guzman ("Plaintiff") for... punitive damages, to the extent that Plaintiff seeks punitive damages in excess of \$1,000.00 pursuant to New York General Business Law ("GBL") § 349." LRC's Memorandum of Law in Support of Its (Amended) Partial Motion for Judgment on the Pleadings, p. 1, DE 106. On February 15, 2017 Plaintiff filed his Opposition [DE 122] and on February 12, 2017 LRC filed its Reply [DE 123].

Plaintiff writes to provide the court with supplemental authority in opposition to LRC's motion for partial judgment on the pleadings. The undersigned represents a different Sykes opt-out member in the EDNY, Case 1:16-cv-04737-WFK-VMS *Bueno v. Harris et al.* against

essentially the same Defendants.<sup>1</sup> The parties in *Bueno* are represented by the same counsel as the parties to the instant action. In *Bueno*, LRC filed essentially the same motion for partial judgment on the pleadings, also seeking to dismiss with prejudice Plaintiff's claims for "punitive damages, to the extent that Plaintiff seeks punitive damages in excess of \$1,000.00 pursuant to New York General Business Law ("GBL") § 349."

Today Judge William F. Kuntz, II denied LRC's motion. The Court held:

On balance, the authority weighs in favor of Plaintiff's argument that section 349 of the GBL allows for recovery of punitive damages in excess of \$1,000.00. The Court therefore declines to grant Defendant's motion for judgment on the pleadings.

Decision & Order, p. 11 (footnote omitted).

A copy of the decision is attached for Your Honor's consideration.

Sincerely,

/s/

Ahmad Keshavarz

CC: all counsel of record via ECF  
Magistrate Judge Ronald L. Ellis

---

<sup>1</sup> The LRC Defendant in the case at bar is LR Credit 13, LLC and the LRC Defendant in *Bueno* is LR Credit 18, LLC.